

Application Number

P/2009/1114

Site Address28 New Street
Paignton
Devon
TQ3 3HN**Case Officer**

Matt Diamond

Ward

Roundham With Hyde

Description

Proposed alterations and rebuilding of buildings facing onto rear lane behind nos. 28 to 36 to form 10 dwellings

Update Report

This application was approved at Development Management Committee on 21.12.2009, subject to conditions and the completion of a section 106 agreement to secure the necessary contributions to mitigate the impact of the development on infrastructure in accordance with Policy CF6 of the Adopted Torbay Local Plan 1995-2011 ('the Local Plan') and the Planning Contributions and Affordable Housing: Priorities and Delivery Adopted Supplementary Planning Document ('the SPD'). To date the section 106 agreement has not been signed, so officers now seek refusal of the application given the length of time that has passed. The original Planning Officer Report is below.

Officers contacted the applicant's agent on 23 April 2014 seeking withdrawal of the application or alternatively whether the applicant still wished to proceed in which case the application would be reviewed in light of up-to-date policies and guidance and taken back to committee. The agent could not get in contact with the applicant, so their solicitor was contacted on 9 May 2014 instead who said that they were still in contact with the applicant and they did still wish to proceed.

Consequently the design of the proposals has been reviewed, given changing circumstances (e.g. NPPF requirements). It is considered that further work is needed to improve the design and appearance of the proposal. The solicitor and agent were contacted again on 19 May 2014 requesting that they attend a meeting to discuss carrying out revisions to the elevations. However, despite a series of chasing e-mails from the Council, no further comment has been received from the applicant's solicitor.

Email correspondence from the Council at the end of May also set out the contributions now due in line with the SPD Update 3 (April 2011) and the 'Third Party Contributions towards the South Devon Link Road' report adopted by the Council on 6 December 2012, and requested confirmation that the applicant

would pay the Council's legal costs for drafting the section 106 agreement. The contributions due are set out below:

Waste Management	£ 500.00
Sustainable Transport	£12,281.25
Stronger Communities	£ 161.25
Lifelong Learning	£ 881.25
Greenspace & Recreation	£ 5,291.25
South Devon Link Road	£ 3,525.00
<u>Total</u>	<u>£22,640.00</u>

Total + 5% Admin Charge £23,772.00

In addition, the Council has advised the applicant's solicitor that the conservation area consent to part demolish the existing buildings on site approved on 11 January 2010 has expired. Therefore, approval was sought to amend the description of the planning application to include demolition, as the planning procedures for demolishing buildings in conservation areas has recently been changed by the Government whereby planning permission must now be obtained and conservation area consent no longer exists. The email once again requested confirmation of how the applicant wished to proceed and if they did not wish to continue whether they could withdraw the application. The email also stated that if no response was received officers would seek refusal of the application at the August Development Management Committee. As stated above, no response has been received.

In addition to refusing the application for no section 106 agreement, it is considered appropriate to add a reason for refusal relating to design given the change in material circumstances since the application was approved at committee previously. The NPPF has been published which is a material consideration when making planning decisions. This includes more detailed design advice than previous national planning policy statements/guidance. Of particular concern is the fact that the elevations do not fit in with the character of development immediately west of the site, which is similar in nature. For example, the windows go all the way to the ground, which makes the dwellings appear more commercial in nature instead of residential.

Statutory Determination Period

The application is a major development and the applicant has not agreed to extend the time period for decision despite requests to do so. Therefore, should Members agree with officers that the most appropriate course of action in the circumstances is to refuse the application, then it will be over time. However, as performance levels are currently very good and well above the threshold for being placed in special measures, a decision on the application is unlikely to

drastically affect the Council's performance on major planning applications measured over a 2 year period.

S106 Contributions Justifications

The contribution towards waste management is justified in paragraph 2.18 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6) and will pay the cost of providing waste and recycling bins to the proposed dwellings. It also complies with Local Plan Policy W7.

The contribution towards sustainable transport is justified in paragraphs 4.12-4.24 of LDD6 and will be used towards the provision and enhancement of sustainable transport modes in the vicinity of the site, including cycle links. The NPPF and Local Plan Policy T2 promote sustainable transport modes. The proposed dwellings would generate additional trips and should therefore contribute toward sustainable transport in the area.

The contribution towards stronger communities is justified in paragraphs 4.31-4.35 of LDD6 and will be used towards the provision of a street warden in the area.

The contribution towards lifelong learning is justified in paragraphs 4.47-4.51 of LDD6 and will be used towards the cost of improving provision at Paignton Library, including upgrading IT equipment. The proposed dwellings would place additional demand on the services provided by Paignton Library and the contribution will ensure these services are provided with funding to mitigate the proposed development.

The contribution towards greenspace and recreation is justified in paragraphs 4.52-4.58 of LDD6 and will be used towards improving maintenance, management and equipment at existing facilities within easy walking distance of the site. The dwellings would place additional demand on these facilities and the contribution will ensure these facilities are provided with funding to mitigate the proposed development.

The contribution towards the SDLR is justified in Appendix 1 of the 'Third Party Contributions towards the South Devon Link Road' report adopted by the Council on 6 December 2012 and is based on an assessment of the impact that the development would have on the road.

Recommendation

Refuse for the following reasons:

No Section 106 Legal Agreement has been entered into to secure the necessary community infrastructure contributions to mitigate the impact of the development on local infrastructure in accordance with Policies CF6 and CF7 of the Adopted

Torbay Local Plan 1995-2011, and the adopted Planning Contributions and Affordable Housing Supplementary Planning Document and subsequent updates. The Local Planning Authority considers that it would be inappropriate to secure the required contributions by any method other than a legal agreement and therefore the proposal is contrary to Policy CF6 of the Adopted Torbay Local Plan 1995-2011.

The design of the elevations is inappropriate in terms of fitting into the character of the surroundings. In particular the fenestration makes the units appear commercial in nature instead of residential. This would have a detrimental impact on the local townscape and would harm the character and appearance of the conservation area contrary to Local Plan Policies BES, BE1 and BE5, and paragraphs 58 and 64 of the NPPF.

*Original Planning Officer Report for Development Management Committee on
21.12.2009*

Site Details

The site comprises the buildings to the rear of 28 - 36 New Street, forming the corner of the lanes which run around the back of New Street. The site is within the Old Paignton conservation area. The site is adjacent to Winner Street which is allocated as Secondary Shopping Frontage. To the south of the site is a strong boundary wall which forms the rear boundary of villas fronting Totnes Road. To the north are the rear gardens of the terraced properties fronting New Street and to the west are the buildings to the rear of Winner Street, some of which have been converted into dwellings.

The buildings to the rear of 32 - 36 New Street are identified in the conservation area appraisal as being key buildings dating from 1870 - 1915.

Relevant Planning History

P/1980/2317 R/O 30 New Street.	Use for gear box repairs. Approved 26/9/80.
P/1984/3395 R/O 30 New Street.	Use of ground floor for car repairs etc Refused 18/2/85.
P/1989/1072 R/O 24-28 New Street.	Erection of 2 storey building to provide 3 garages, store and games room. Refused 17/1/89.
P/1989/1818 R/O 24-28 New Street.	Erection of two storey building to provide 3 garages, store and games room. Refused 8/11/89.
P/2001/0012 R/O 28 New Street.	Erection of storage building with flat above. Refused 20/2/01.

P/2001/1046 R/O 28 New Street.	Erection of ground and first floor storage building. Refused 20/09/01.
P/2002/2029 R/O 30, 32, 36 New Street.	Demolition works in connection with redevelopment to four dwellings. Approved 28/3/03.
P/2002/2030 R/O 30, 32, 34, 36 New Street.	Conversion, part demolition and rebuild of existing garages, workshops and stores to form 4 residential units. Approved 23/6/04.
P/2006/1348 R/O 28 New Street.	Demolish structure and erection of 2 no 2 bedroom flats and 1 no 1 bedroom flat. Refused 21/8/06.
P/2007/0708 R/O 28 New Street.	Erection of block of 3 no 1 bedroom flats. Refused 25/7/07.
P/2007/0905 R/O 28 New Street.	Demolish Structure. Approved 27/7/07. Pre-application enquiry
ZP/2008/0855 Redevelopment.	Following negotiations scheme was agreed in principle 24/11/08.

Relevant Policies

- H2 Promotes sustainable forms of new development
- H9 Requires a high standard of design, taking into account characteristics of existing environment
- H10 Supports development at maximum densities
- BES Requires new development to conserve or enhance the built environment
- BE1 Requires design of new development to take account of the wider context
- BE5 Development will only be permitted where it will preserve or enhance the character or appearance of the conservation area
- T1 Seeks to locate development in accessible locations
- T25 Sets out parking standards for different types of development
- T26 Seeks to provide safe and convenient access from new development
- CF6 Seeks to achieve appropriate contributions where additional social, physical or environmental infrastructure is needed.

Proposals

The application proposes the demolition of some of the buildings on the site with additional new build and conversion works to result in 10 units.

To the rear of 28 New Street is a single storey boundary wall with a pedestrian door and a garage door. Adjacent to this is a two storey flat roof building with a sloping glazed section at the rear. This has double doors to a garage at ground floor level with storage upstairs. It is proposed to demolish all of the structures on these two sites and replace them with two new buildings. These would both be two storey buildings with gabled roofs with a pitch running at right angles to the

lane. The building to the rear of 28 New Street would contain 2 x 1 bedroom houses, the rear being accessed via a pedestrian access and shared yard area between and to the rear of the two buildings, this yard would also provide bin, bike and buggy storage areas. The replacement building to the rear of 30 New Street would also be a 1 bedroom house. These buildings would have natural slate roofs, cedar cladding to the upper storey and red brick to the ground floor. It is proposed to construct a 1.5m high wall between the new yard and the gardens of 28 and 30 New Street. Fronting onto the lane would be railings at ground floor level and the ground floor accommodation would be slightly recessed.

To the rear of 32 New Street is a two storey building with a gable wall facing the rear lane. It is proposed to retain this building and convert it into 2 x 1 bedroom flats. Changes to the elevations comprise an enlarged window on the front elevation at first floor level, increased glazing on the ground floor, the extension to the ground floor at the rear to be removed, existing fenestration to be removed from the rear and replaced with 4 high level windows to kitchens and bathrooms.

To the rear of 34 and 36 New Street is a 1.5 storey sand stone building with a slate roof. It is proposed to retain this building and convert it into 2 x 1 bed flats. There is an existing opening which provides access to the rear of the building which would be blocked up and a front door formed. The existing openings on the gable end would be glazed.

Onto the lane which runs along the western boundary of the site, adjacent to the sandstone building there is a single storey garage and store and a two storey pitched roof storage building. It is proposed to demolish the single storey element and replace it with a two storey building containing 2 x 1 bed flats. This would be fully glazed on the ground floor, timber clad on the first floor and would have a natural slate roof. This building would be slightly recessed from the back edge of the lane to accommodate a small balcony at first floor level. There would be 4 high level windows on the rear elevation. The existing two storey element would be retained although it would be raised in height by approx 0.8m. The existing openings in the ground floor of the front elevation would be glazed with two new windows at first floor. This would contain a 1 bedroom unit.

Consultations

South West Water - No objections although the applicants will need to agree the means of surface water drainage.

Environment Agency - Standard Advice - Surface water management good practice should be applied.

Senior Transport Planner - Require a sustainable transport contribution of £15,168 and one secure, lit and covered cycle storage space per dwelling.

Highways - Objects due to lack of parking.

Conservation Officer - Comments awaited.

Representations

Letters of objection have been received which relates to the following issues:

- Ground floor glazing on to the lanes not appropriate
- Frontage to unit 4 should be set back
- Need details of service cupboards - could be highly detrimental to the appearance of the buildings.
- Restoration of the Breccia stone building is positive but need to ensure it is repaired and protected during construction
- Contributions should be given to be put towards increased signage and patrols of the highway
- Overdevelopment
- Not in keeping
- Precedent
- Lack of parking
- Cramped living conditions
- Access problems.

One letter of support has been received which relates to the following issues:

- Buildings are in a poor condition
- Plans are well thought out and in keeping with the conservation area.

These representations have been sent electronically for Members consideration.

Key Issues/Material Considerations

The main issues in determining this application are considered to be (1) whether the principle of the proposal is acceptable, (2) whether the proposed demolition is acceptable, (3) whether the impact upon neighbouring properties is acceptable, (4) whether the visual impact is acceptable, (5) whether the parking and access arrangements are acceptable and (6) drainage considerations.

Principle

The site is within the built up area of Paignton in close proximity to the town centre. It is in a very sustainable location and is surrounded by other residential development. The current uses of the buildings have the potential to conflict with the residential character of the area, whereas a residential use would conform with the overriding character of the area. Therefore the proposal represents an efficient use of a brown field site and is therefore the principle is supported.

Demolition

A separate application for conservation area consent has been submitted under application P/2009/1115. The comments of the conservation officer area awaited, however the buildings which are to be demolished are those which make the least contribution to the conservation area. This matter will be updated.

Impact on Neighbours

To the south the proposed dwellings would face the boundary wall and the properties beyond are approximately 20m away. To the east the main issue is the side wall of the new section of building upon the garden of 26 New Street. The building has been designed with no openings on this side elevation and the building itself would be over 15m away at an oblique angle. The proposal involves a small number of high level windows which face the rear of the properties of New Street. It is considered that this will prevent any undue overlooking. The physical presence of the buildings themselves will have little impact over and above those which exist on the site at present. Some elements are higher than those which exist however this is not to the detriment of the residential amenities of residents of New Road. The properties which are on the western part of the site have a relatively close relationship with the converted buildings at the rear of Winner Street. Windows would be within 5m of one another. However the character of this part of the conservation area is that of narrow lanes and as such it is not an unexpected relationship in a historical area. There are windows in this location at present (albeit not in residential use) and habitable windows were approved in this location under the approval on 2004.

Visual Impact

The comments on the detailed design are awaited from the conservation officer, however in general the design put forward is considered to be successful. Reference points have been picked up from other parts of the conservation area and much of the original fabric is maintained in this scheme. The scheme is an improvement upon previous submissions for the site. The new build elements are higher than what exists, however they are not excessively tall in their context and do not appear overly prominent. The scheme provides a semi-private recessed area to the frontage of some of the properties but not all. However the character of the lane is that of buildings hard up against the lane and as such it is not considered desirable to ask the architect to include more set backs. The details will be important in achieving a successful scheme and as such it is suggested that a number of conditions are added requiring details of windows, doors, rainwater goods, meter boxes and cabinets, railings and hard surfaced areas. Therefore subject to the comments of the conservation officer and the conditions suggested the visual impact of the proposal is considered to be acceptable.

Parking and Access

The comments of the highways officer are awaited. There were objections at a pre-application stage and indeed previous applications on the site have been refused for lack of parking. However there is no reasonable scope to provide parking on the site in a visually acceptable, and safe manner. It is considered far preferable to achieve a positive enhancement of the conservation area than to achieve parking on this site. The thrust of Government Policy is to avoid providing parking to full standard especially in highly sustainable locations such as this. Furthermore the proposal is for small units as opposed to family sized units where car parking is more likely to be required. As such it is considered that

the absence of parking is not contrary to policy. There will need to be a section 106 legal agreement associated with this application and this will include a contribution towards sustainable transportation in the area. Cycle parking spaces are also shown on the plans.

Drainage

South West Water have not objected to the proposal subject to details of surface water drainage which can be required by condition. It will not be possible to use a soakaway given the lack of land in the applicant's control around the buildings. As such it is likely that such measures will revolve around the type of hard surfacing materials proposed.

Sustainability - The proposal does not explicitly refer to the use of sustainable technologies. However it is in a highly sustainable location and involves the re-use of a number of buildings, making efficient use of this brown field site.

Crime and Disorder - No issues.

Disability Issues - Building Regulations only.

Conclusions

The proposal represents the opportunity to provide a development of small units in an accessible location which represents a positive enhancement of the conservation area. It complies with the relevant local and national planning policy framework and as such is recommended for approval subject to the following:

- No objections being received from the conservation officer
- Any additional conditions which may be required
- The signing of a Section 106 Agreement.

A Committee site visit is recommended.

Recommendations:

Committee site visit; Conditional Approval.

Condition(s)/Reason(s)

01. No section 106 legal agreement has been prepared to secure the necessary community infrastructure contributions to mitigate the impact of the development on local infrastructure in accordance with Policies CF6 and CF7 of the Adopted Torbay Local Plan 1995-2011, and the adopted Planning Contributions and Affordable Housing Supplementary Planning Document and subsequent updates. The Local Planning Authority considers that it would be inappropriate to secure the required contributions by any method other than a legal agreement and therefore the proposal is contrary to Policy CF6 of the

Adopted Torbay Local Plan 1995-2011.

02. The design of the elevations is inappropriate in terms of fitting into the character of the surroundings. In particular the fenestration makes the units appear commercial in nature instead of residential. This would have a detrimental impact on the local townscape and would harm the character and appearance of the conservation area contrary to Local Plan Policies BES, BE1 and BE5, and paragraphs 58 and 64 of the NPPF.

Relevant Policies

HS	Housing Strategy
H2	New housing on unidentified sites
H9	Layout, and design and community aspects
H10	Housing densities
CF2	Crime prevention
CF6	Community infrastructure contributions
W7	Development and waste recycling facilities
EP6	Derelict and under-used land
BES	Built environment strategy
BE1	Design of new development
BE5	Policy in conservation areas
TS	Land use transportation strategy
T1	Development accessibility
T2	Transport hierarchy
T25	Car parking in new development